IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

Crl.MC.No. 356 of 2007()

C.P.NO.156/2006 ON THE FILE OF JUDICIAL MAGISTRATE OF THE FIRST CLASS, THIRUVALLA IN C.R.NO.69/1996 OF THIRUVALLA EXCISE RANGE

PETITIONER:

RAJENDRAN, S/0.BHADRAN,
BHADRAMANGALATHU,
IYTHOTTUVA, WEST KALLADA,
KOLLAM DISTRICT.

BY ADV. SRI.SIJU KAMALASANAN
SRI.MUHAMMED RAFI

RESPONDENT:

STATE OF KERALA REPRESENTED BY THE EXCISE INSPECTOR,
THIRUVALLA EXCISE RANGE THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR, SRI GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.356 of 2007

Dated this the 13th day of February 2007

O R D E R

The petitioner faces indictment in a prosecution under the Kerala Abkari Act. Investigation is complete. Final report has been filed. Committal proceedings has been registered. The petitioner, who is the first accused, has not been arrested. The learned Magistrate has issued coercive process against the petitioner for his arrest in C.P.No.156/2006. The petitioner is willing to surrender before the learned Magistrate. He apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. In these circumstances, he has come to this court with the prayer that directions may be issued under Section 482 Cr.P.C to release the petitioner on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339]. Notwithstanding the fact that the offence is triable exclusively by a court of Sessions, the learned Magistrate must consider the application for bail on merits.

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006